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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/364,220	07/29/1999	JAY SENIOR	200786	9117

7590 02/20/2004

LEYDIG VOIT & MAYER LTD  
TWO PRUDENTIAL PLAZA  
SUITE 4900  
180 NORTH STETSON  
CHICAGO, IL 606016780

EXAMINER

CHUNG TRANS, XUONG MY

ART UNIT	PAPER NUMBER
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2833

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/364,220

Applicant(s)

SENIOR ET AL.

Examiner

Xuong M. Chung-Trans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6,7,9,10,12-15,19,38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 9, 10, 12-15, 19, 38 and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

1. This is responsive to communication filed on October 14, 2003.
2. In the amendment filed 14 October 2003, claims 1, 4, 6-7, 9-10, 12-15 and 19 have been amended, claims 5, 8, 11, 16-18 and 20-37 have been canceled, and newly claims 38 and 39 have been added. Thus, claims 1-4, 6, 7, 9, 10, 12-15, 19, 38 and 39 are pending in this application (see first paragraph of the REMARKS section).
3. Claims 1-4, 6, 7, 9, 10, 12-15, 19, 38 and 39 are rejected under 35 U.S.C.103 (a) as being unpatentable over Scheurich '266 in view of Bertin et al '167. The rejection of claims as stated in the Office action dated June 11, 2003 is hereby incorporated by reference.
4. Applicant's arguments filed October 14, 2003 have been fully considered but are not persuasive.

Applicant stated that neither Scheurich nor Bertin, singly or in combination, discusses or hints at the role of policy preferences (i.e., the role of priority level of a device requesting bandwidth) as disclosed in the specification on page 19, line 1 through page 20, line 25 and page 24, line 26 through page 25, line 12. First, the examiner would like to point out that applicant's argument is directed to the specification, not the claimed subject matters in the claims. Further, the examiner respectfully disagrees with applicant's assertion that neither Scheurich nor Bertin

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discusses or hints at the role of priority level for a device requesting bandwidth. Col. 1, lines 6-12; col. 2, lines 64-67 and col. 4, lines 11-16 of Bertin disclose such a role of priority level for a device requesting bandwidth.

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xuong M. Chung-Trans whose telephone number is (571) 272-2002. The examiner can normally be reached on Monday- Friday from 9:30am- to 1:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Bradley, can be reached on (571) 272-2800 extension 33. The fax


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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



XM Chung-Trans



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